

HOUSE BILL NO. 553

INTRODUCED BY GALLIK, BALLANTYNE, BECKER, BRANAE, BUZZAS, CALLAHAN, CARNEY, COHENOUR, COONEY, CYR, DOWELL, ELLINGSON, ERICKSON, FACEY, FRITZ, GALVIN-HALCRO, GALLUS, GIBSON, GOLIE, GUTSCHE, HARRINGTON, JACOBSON, JENT, KEANE, LASLOVICH, LAWSON, MENDENHALL, MUSGROVE, PEASE, RASER, D. RYAN, SCHMIDT, SMALL-EASTMAN, TESTER, TOOLE, WANZENRIED, WEISS, WILSON, HARRIS, PARKER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING THE TREATMENT OF ANIMALS; PROVIDING FOR PAYMENT THROUGH A BONDING PROCESS FOR A CIVIL HEARING CONCERNING THE CARE OF ANIMALS SEIZED WHEN THE OWNER IS CONVICTED OF CHARGED WITH CRUELTY TO ANIMALS; CHANGING THE FINE AND IMPRISONMENT PENALTIES FOR THE CRIME; ~~DEFINING~~ CREATING THE OFFENSE OF "AGGRAVATED ANIMAL CRUELTY"; EXPANDING THE LIST OF EXEMPT ACTIVITIES AND PRACTICES; ~~PROVIDING AN EXEMPTION FROM LIABILITY FOR VETERINARIANS~~; AND AMENDING SECTION 45-8-211, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. Definition. As used in this part, "aggravated animal cruelty" means:~~

- ~~(1) maliciously killing an animal;~~
- ~~(2) intentionally or knowingly torturing an animal; or~~
- ~~(3) inflicting animal cruelty on an entire collection, kennel, or herd of animals.~~

Section 1. Section 45-8-211, MCA, is amended to read:

"45-8-211. Cruelty to animals -- ~~exception~~ exceptions. (1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

- (a) overworking, beating, tormenting, TORTURING, injuring, or killing ~~any~~ the animal;
- (b) carrying or confining ~~any~~ the animal in a cruel manner;
- (c) failing to provide an animal in the person's custody with:
 - (i) ~~proper food, drink, or shelter; or~~
 - (i) species-specific food AND WATER of sufficient quantity and quality to ~~allow for~~ SUSTAIN THE ANIMAL'S

~~normal growth or the maintenance of body weight. Feed standards must be those recommended by a licensed veterinarian or the national research council.~~ HEALTH;

~~(ii) clean, potable water that is in sufficient quantity to satisfy the animal's needs or that is supplied by free choice. Snow and ice are not an adequate water source.~~

~~(iii)(ii) minimum protection or a constructed shelter to protect FOR the animal from adverse weather conditions, including extreme heat or cold and wind or precipitation; with consideration given to THE species or breed-specific coat composition;~~

~~(iv) proper exercise based on species or breed requirements. Animals must be provided the opportunity for periodic exercise, unless exercise is restricted by a licensed veterinarian.~~

~~(v)(iii)~~ in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;

(d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2) (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed ~~\$500~~ \$1,000 or be imprisoned in the county jail for a term not to exceed ~~6 months~~ 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed ~~\$1,000~~ \$2,500 or be imprisoned ~~sentenced to the department of corrections in the state prison~~ for a term not to exceed 2 years, or both.

(b) ~~(i)~~ If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted ~~any animal affected~~. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

~~(ii) A person guilty of cruelty to an animal that is the property of another is liable to the owner of the animal for damages in addition to the penalties prescribed by law.~~

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court ~~may~~ shall:

(a) require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including REASONABLE costs of care incurred by a public or private animal control agency or humane animal treatment shelter; and

(b) prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) ~~Nothing in this section prohibits~~ The following are exempt from this section unless gross negligence is shown THIS SECTION DOES NOT PROHIBIT:

(a) a person ~~from~~ humanely destroying an animal for just cause; or

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian; or

(h) lawful control of rodents and predators and other lawful animal damage control activities, including but not limited to poisoning, trapping, and shooting; OR

(I) ACCEPTED TRAINING AND DISCIPLINE METHODS.

~~———— (5) (a) Except as provided in subsection (5)(b), a licensed veterinarian must be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this chapter. A veterinarian is protected from a lawsuit for the veterinarian's part in an investigation of cruelty to animals.~~

~~———— (b) A veterinarian who participates or reports in bad faith or with malice is not allowed the protection from liability provided in subsection (5)(a).~~

~~———— (6) A licensed veterinarian shall report known or suspected cases of abuse, cruelty, or neglect to peace officers or animal humane agents.~~

~~———— (7) (a) Upon diagnosis and recommendation of a licensed veterinarian, a custodial agency may euthanize severely injured, diseased, or suffering animals at any time.~~

~~———— (b) Except as provided in subsection (7)(a), the agency having custody of the animal may not adopt or euthanize the animal within 20 business days after the animal is taken into custody. An owner may prevent the animal's adoption or destruction by:~~

~~———— (i) petitioning the district court of the county where the animal was seized for the animal's immediate return, subject to court-imposed conditions; or~~

~~———— (ii) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the seizure date.~~

~~———— (c) If the custodial agency still has custody of the animal when the bond or security expires, the animal~~

~~becomes the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew the bond or security for the agency's continuing costs for the animal's care."~~

NEW SECTION. SECTION 2. AGGRAVATED ANIMAL CRUELTY. A PERSON COMMITS THE OFFENSE OF AGGRAVATED ANIMAL CRUELTY IF THE PERSON:

(1) PURPOSELY OR KNOWINGLY KILLS AN ANIMAL WITH THE PURPOSE OF TERRIFYING, TORTURING, OR MUTILATING THE ANIMAL; OR

(2) INFLECTS CRUELTY TO ANIMALS ON A COLLECTION, KENNEL, OR HERD OF 10 OR MORE ANIMALS.

NEW SECTION. SECTION 3. ANIMAL WELFARE HEARING. (1) WHEN AN ANIMAL IS SEIZED FROM A PERSON PURSUANT TO AN ARREST FOR AN ALLEGED VIOLATION OF 45-8-211 OR [SECTION 2], THE PROSECUTOR MAY FILE PETITION FOR AN ANIMAL WELFARE HEARING IN DISTRICT COURT IN THE COUNTY WHERE THE ARREST WAS MADE.

(2) THE PETITION MUST CONTAIN:

(A) THE PURPORTED FACTS REGARDING ANIMAL NEGLECT AND THE CURRENT CONDITION OF THE ANIMAL;

(B) ANY FACTS DEMONSTRATING THE ANIMAL'S EXTREME DISEASE, INJURY, OR SUFFERING, IF APPLICABLE; AND

(C) THE NAME AND ADDRESS OF THE RESPONDENT.

(3) IF THE COURT FINDS PROBABLE CAUSE THAT THE ANIMAL EXHIBITS EXTREME DISEASE, INJURY, OR SUFFERING, THE COURT SHALL SET THE MATTER FOR HEARING NOT MORE THAN 10 DAYS AFTER THE PETITION WAS FILED WITH THE CLERK OF COURT. OTHERWISE, THE COURT SHALL SET THE MATTER FOR HEARING NOT MORE THAN 30 DAYS AFTER THE PETITION WAS FILED.

(4) AT THE HEARING, THE COURT MAY CONSIDER THE FOLLOWING FACTORS:

(A) THE PROPRIETY OF RETURNING THE ANIMAL TO THE OWNER GIVEN THE ALLEGED FACTS REGARDING ABUSE OR NEGLECT;

(B) THE EXTENT OF THE ANIMAL'S DISEASE, INJURY, OR SUFFERING, IF APPLICABLE;

(C) THE LIKELIHOOD OF VIABLE TREATMENT OF THE ANIMAL'S CONDITION, IF APPLICABLE, BASED UPON AVAILABLE VETERINARY TESTIMONY; AND

(D) THE AVAILABILITY OF FUNDING TO PROVIDE FOR THE ANIMAL'S TREATMENT, SHELTER, AND CARE.

(5) UPON CONSIDERATION OF THE FACTORS LISTED IN SUBSECTION (4), THE COURT MAY ORDER ANY OF THE FOLLOWING:

(A) IMMEDIATE RELEASE OF THE ANIMAL TO THE OWNER;

(B) IMPOSITION OF A BOND OR SECURITY IN AN AMOUNT SUFFICIENT TO PROVIDE FOR THE ANIMAL'S CARE FOR A MINIMUM OF 30 DAYS FROM THE DATE OF SEIZURE; OR

(C) EUTHANIZATION OF SEVERELY DISEASED, INJURED, OR SUFFERING ANIMALS.

(6) A HEARING PURSUANT TO THIS SECTION DOES NOT CONSTITUTE AN ADJUDICATION WITH REGARD TO CHARGES FILED UNDER 45-8-211 OR [SECTION 2].

NEW SECTION. Section 4. Codification instruction. (1) [Section 4 2] is intended to be codified as an integral part of Title 45, chapter 8, part 2, and the provisions of Title 45, chapter 8, part 2, apply to [section 4 2].

(2) [SECTION 3] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 27, CHAPTER 1, PART 4, AND THE PROVISIONS OF TITLE 27, CHAPTER 1, PART 4, APPLY TO [SECTION 3].

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